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\_\_\_\_\_  
NO. 90-825  
\_\_\_\_\_

IN THE  
SUPREME COURT  
OF THE  
UNITED STATES

\_\_\_\_\_  
OCTOBER TERM, 1990  
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RICHARD JOSEPH LYNN,

Petitioner,

vs.

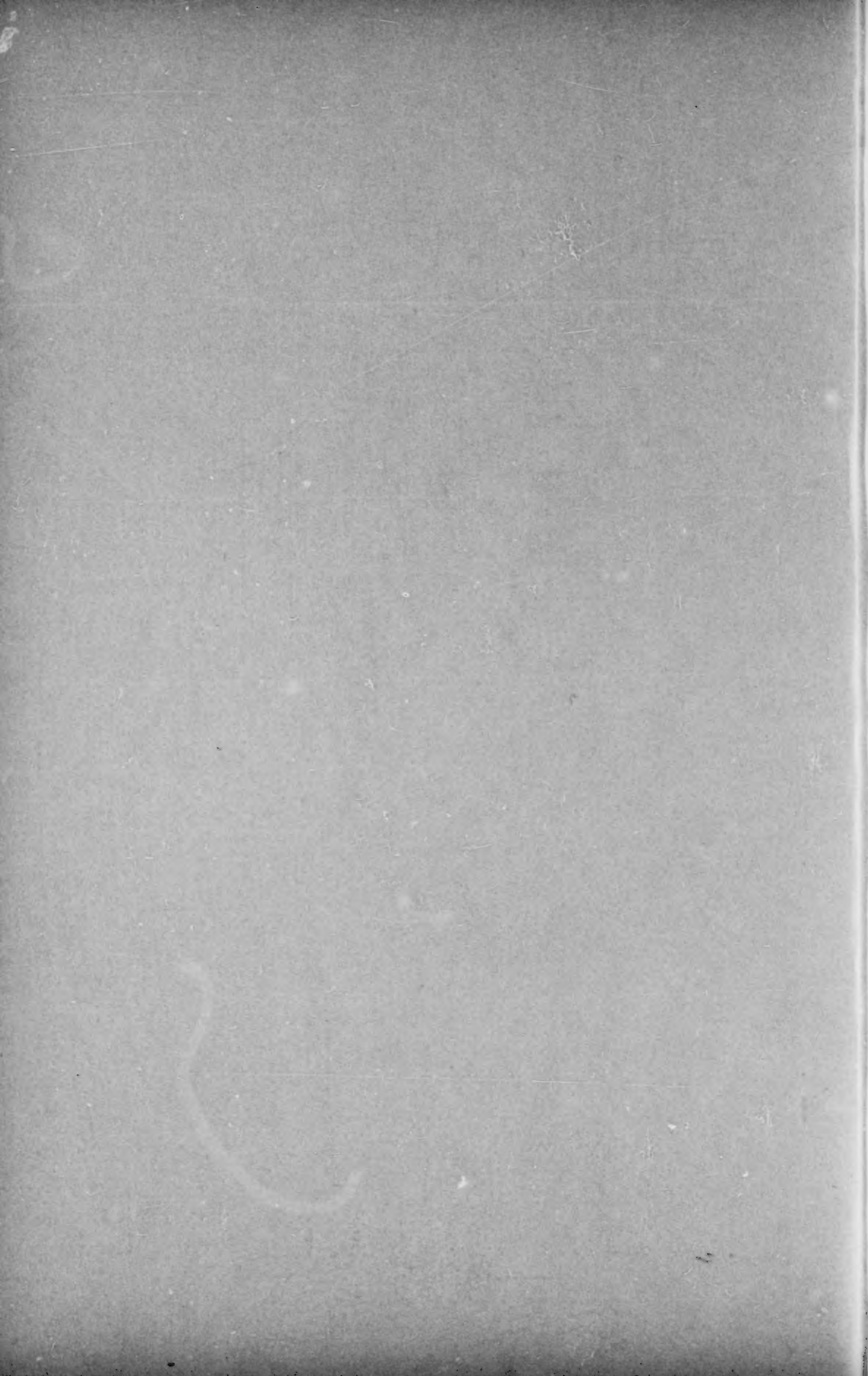
UNITED STATES OF AMERICA,

Respondent.

\_\_\_\_\_  
SUPPLEMENTAL BRIEF TO  
PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT  
\_\_\_\_\_

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## QUESTION PRESENTED

### I.

WHETHER THE DECISION OF THE COURT BELOW GRANTING THE GOVERNMENT'S MOTION TO DISMISS THE PETITIONER'S APPEAL BECAUSE HE WAS A FUGITIVE AT ONE POINT DURING THE EARLY STAGES OF HIS APPEAL, DESPITE THE FACT THAT HIS ABSENCE CAUSED NO DELAY IN THE PROCEEDINGS, HE WAS IN CUSTODY TWO DAYS AFTER HIS APPELLATE BRIEF WAS RECEIVED BY THE COURT, AND HIS ABSENCE CAUSED NO PREJUDICE TO THE GOVERNMENT IS IN DIRECT CONFLICT WITH DECISIONS OF OTHER CIRCUIT COURTS AND HAS SO FAR DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS, REQUIRING THIS COURT TO EXERCISE ITS SUPERVISORY POWER.



## TABLE OF CONTENTS

	PAGE
Question Presented.....	1
Table of Contents.....	ii
Table of Authorities.....	iii
Conclusion.....	3

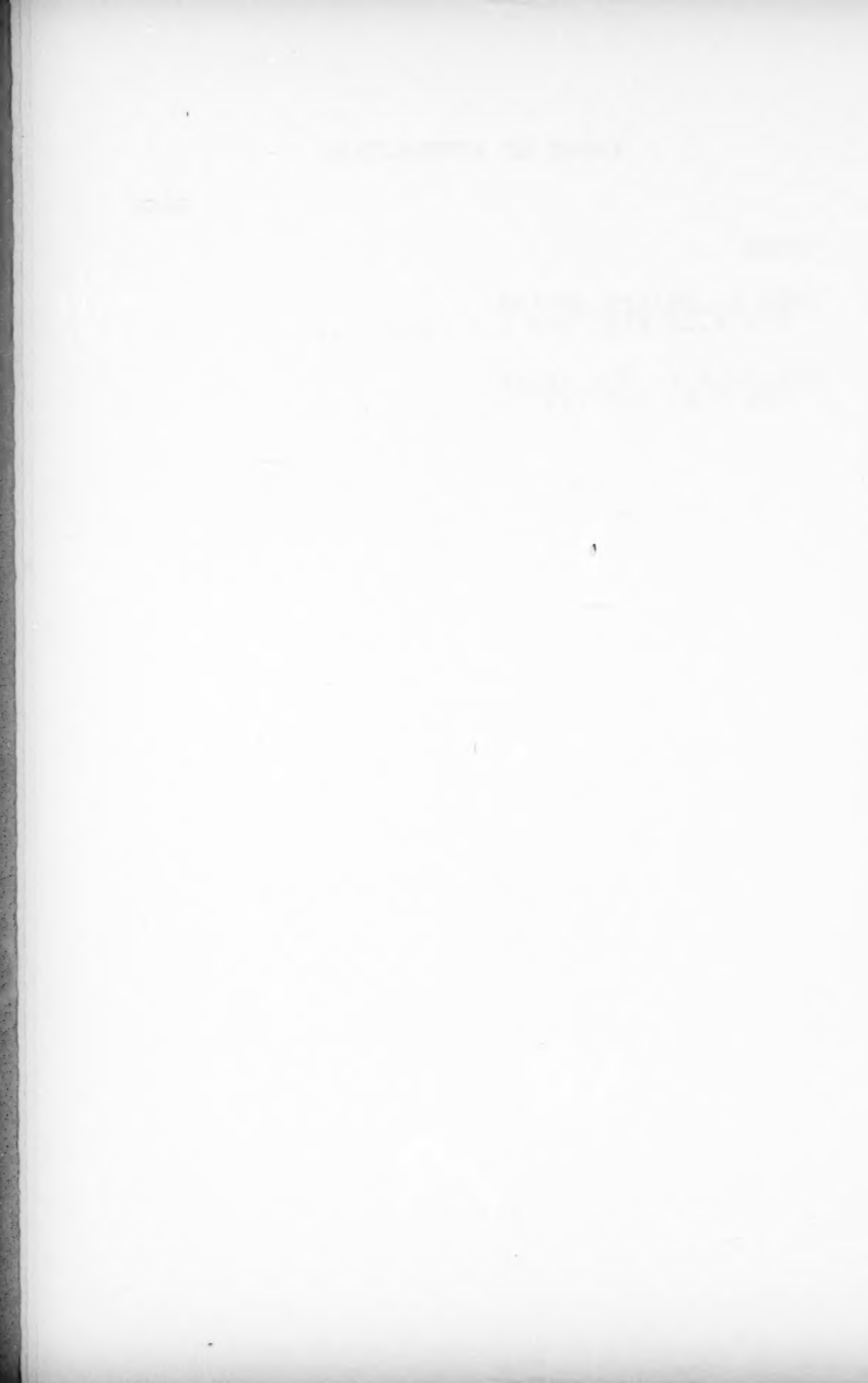


## TABLE OF AUTHORITIES

### PAGE

#### CASES

<u>Katz v. United States,</u> 920 F.2d 610 (9th Cir. 1990).....	2
<u>Molinaro v. New Jersey,</u> 396 U.S. 365 (1970).....	2





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The Petitioner, RICHARD JOSEPH LYNN, by his undersigned counsel, and pursuant to Supreme Court Rules 15.7 and 18.9, hereby submits this supplemental brief in support of

1 (11)

his petition for writ of certiorari, filed with this Honorable Court on November 15, 1990.

Undersigned counsel wishes to call to this Court's attention the case of Katz v. United States, 920 F.2d 610 (9th Cir. 1990). Katz, which was decided subsequent to the Petitioner's filing of his petition for writ of certiorari, directly supports the Petitioner's argument that an individual who was once a fugitive during the pendency of his appeal but is recaptured or voluntarily surrenders, does not lose his right to have the merits of his appeal adjudicated. The Ninth Circuit Court of Appeals in Katz did recognize the continuing validity of this Court's holding in Molinaro v. New Jersey, 396 U.S. 365 (1970), that when a defendant is a fugitive he would be prevented from calling upon the resources of the appellate court for determination of his claim. However, the Katz



court agreed that when the circumstances have changed and the defendant is no longer a fugitive, he is entitled to have his appeal adjudicated.

CONCLUSION

For the reasons stated in the Petitioner's petition for writ of certiorari and this supplemental brief, the Petitioner prays this Court issue a writ of certiorari.

Respectfully submitted,

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